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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,778	01/17/2001	Jean-Yves Sireau	23677/15:1	7436

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STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND, OR 97204

EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,778

Applicant(s)

SIREAU, JEAN-YVES

Examiner

JAGDISH PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18 and 38-46, drawn to **a system** and a machine being operable to calculate **fixed odds for an outcome of a financial market** based on parameters input by a user relating to the fixed-odds bet and data obtained from a source of data concerning the financial market.
- II. Claims 19-37 are drawn to **a method and a product** of operating a fixed-odds betting system comprising (a processing machine) calculating a **fixed-odds price for a bet** based on parameters input by a user relating the bet and data obtained from a source of data concerning the financial market.
- III. Claims 47-49 are drawn to **a method** of operating a betting system comprising **identifying at least one successful bettor whose predictions are consistently similar to the outcomes of events to which the predictions made by multiple bettors relate.**

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The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process of invention II can be practiced by another materially different apparatus, namely **a central processing machine calculating a fixed-odds price for a bet** and the apparatus of invention I can be used to practice another and materially different process namely **for calculating a fixed odds for an outcome of the financial market**. It is noted that the apparatus claims 36 and 37 corresponds to method claims 19-34 and are also rendered distinct as per this analysis.

3. Inventions I (apparatus) and III (process) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process of invention III

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can be practiced by another materially different apparatus or by hand, namely **identifying at least one successful bettor whose predictions are consistently similar to the outcomes of events to which the predictions made by multiple bettors relate** and the apparatus of invention I can be used to practice another and materially different process namely **for calculating a fixed odds for an outcome of the financial market.**

4. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as calculating a **fixed-odds price for a bet** based on parameters input by a user relating the bet and data obtained from a source of data concerning the financial market. See MPEP § 806.05(d).

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II and III, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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7. This application contains claims directed to the following patentably distinct species of the claimed inventions I and II respectively.

8. In the event that the applicant elects invention I, election of one of the following patentably distinct species is required.

Species I-A: betting system and apparatus comprising a payment system and an accounting system.

Species I-B: betting system and apparatus comprising a system for varying an amount of virtual money assigned to user in response to the fixed odds bet and outcome of the financial market.

Species I-C: betting system and apparatus comprising a storage facility for storing information relating to the fixed odds further comprising means to retrieve the information and means to calculate price at which to offer previously placed bet from a user.

9. In the event that the applicant elects invention II, election of one of the following patentably distinct species is required.

Species II-A: method and apparatus that calculates future volatility of the financial market.

Species II-B: method and apparatus that checks opening time of the financial market.

Species II-C: method and apparatus that calculates correlation matrix concerning the financial markets.

Species II-D: method and apparatus that calculates hedging factor based on information concerning the previously placed bets stored in a storage facility.

Species II-E: method and apparatus that calculates price at which to offer to buy a previously placed bet from a user.

No species are indicated for invention III based upon the analysis of claim 49 as improper dependent claim encompassing two different statutory classes (method and system).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Claims 1 and 19 are generic to respective species discussed above.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are

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generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

10. A telephone call was made to Att. Ferris, Kassim (Reg. 39,974) on 3/14/05 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be

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examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (703)308-7837. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703)308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Jagdish N. Patel', written over a horizontal line.

Jagdish N. Patel

(Primary Examiner, AU 3624)

3/16/04